



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
OFFICE OF THE GENERAL COUNSEL
DIVISION OF LEGAL COUNSEL
CONTEMPT, COMPLIANCE, AND SPECIAL LITIGATION
BRANCH
Washington, D.C. 20570

November 18, 2015

VIA Electronic Case Filing

Honorable Andrew L. Carter, Jr.
United States District Court
Southern District of New York
40 Foley Square
New York, New York 10007

Re: *Kelly v. Pearce*, Case No. 1:15-cv-05117-ALC

Dear Judge Carter:

As permitted by this Court in the November 5 status conference concerning the above-referenced case, this letter responds to Mr. Murray's November 12, 2015 letter (Docket #51). Mr. Murray's letter essentially repeats the argument previously made by Plaintiffs Kelly *et al.* in their Opposition to the Board's Motion to Dismiss (Docket #45). That is Plaintiffs claim that the Board's processing of the Employer's unit clarification petition effectively forced the Union to make a contractual concession by disregarding the parties' implied agreement to forego access to the Board's representational processes. As a substantive matter, the Board fully responded to this argument in its Reply in support of its Motion to Dismiss (Docket # 48) at 6-10.

More importantly, because it is clear that this Court lacks jurisdiction to review the Board's unit clarification proceeding, as fully explained in the Board's filings in this matter (Docket # 40 and # 48), the above-referenced case should be dismissed.

Unfortunately, the Board cannot opine as to the proper disposition of the two related cases between the New York New Jersey Regional Joint Board, Local 340 and Brooks Brothers Group, Inc., 1:12-cv-05006-ALC and 1:15-cv-08365-ALC, because the Board is not a party to those matters.

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Respectfully submitted,

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Cc: Mr. Thomas Murray
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